

OFFICIAL COPY

Fresno, California

September 21, 2004

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
Jon Ruiz, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

District 2 Council Assistant Kloose gave an inspiration message and President Castillo led The Pledge of Allegiance.

PROCLAMATION OF CIVIL WAR REVISITED WEEKEND - COUNCILMEMBER DUNCAN

PROCLAMATION OF CONSTITUTION DAY - MAYOR AUTRY

The above proclamations were read and presented.

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APPROVE MINUTES OF AUGUST 31, 2004:

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the minutes of August 31, 2004, approved as submitted.

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COUNCIL MEMBER REPORTS AND COMMENTS:

COMMENDATION TO CODE ENFORCEMENT ON THEIR BROCHURE RELATING TO INFORMATION/REQUIREMENTS FOR POLITICAL SIGNS - COUNCILMEMBER CALHOUN

Commendation made and City Attorney Montoy and Code Enforcement Manager Villa responded briefly to questions of Councilmember Calhoun relative to coordinating with the County Clerk to ensure the information gets out.

RECOGNITION OF GROVER GROVES AND EX-REDEVELOPMENT AGENCY DIRECTOR DAN FITZPATRICK - COUNCILMEMBER CALHOUN

Councilmember Calhoun noted the passing of Mr. Groves and spoke to Mr. Groves' and Mr. Fitzpatrick's beliefs, vision and significant impacts on the city of Fresno. Councilmember Sterling later stated she met with Mr. Groves on many occasions, spoke to his participation in events, and stated he had a lot of history, he would be missed, and advised she has a plaque of all Mr. Groves' medals and she wanted to be part of any recognition event.

(1) REQUEST STAFF TO LOOK INTO CONDITION AND CLEANLINESS OF WOODWARD PARK RESTROOMS; AND (2) REQUEST FOR STATUS REPORT/COMPLETION DATE OF PROJECT IN NORTHERN PART OF DISTRICT 7 - ACTING PRESIDENT PEREA

Requests made with City Manager Hobbs stating staff would address the restroom issue and Assistant Public Works/Streets Director Dilley advising the project would be completed by the end of next week.

COMMENDATION TO: (1) THE POVERELLO HOUSE FOR THEIR ASSISTANCE/HOSTING OF THE VETERANS STAND DOWN EVENT THIS PAST WEEKEND, AND (2) POLICE DEPARTMENT FOR HOSTING DISTRICT 3 BLOCK PARTIES - COUNCILMEMBER STERLING

Commendations made.

(1) MEDIAN ISLAND MAINTENANCE; (2) REQUEST TO STAFF TO LOCATE \$2,500 TO ASSIST THE DIXIELAND SOCIETY DUE TO THEIR CONTRIBUTIONS TO THE COMMUNITY; AND (3) COMMENDATION TO AMERICAN LEGION POST 4 FOR HOSTING A BBQ FOR RETURNING SOLDIERS FROM AFGHANISTAN - COUNCILMEMBER DAGES

City Manager Hobbs stated the maintenance issue was progressing and a report was scheduled on the agenda for discussion this date and advised staff would look into the funding issue.

SPCA PET OF THE MONTH - COUNCILMEMBER DAGES

The pet of the month, a Queensland Heeler puppy, was showcased.

APPROVE AGENDA:

(5:00 P.M.) DISCUSSION AND DIRECTION REGARDING PRIVATIZATION OF COMMERCIAL SOLID WASTE COLLECTION SERVICES - PRESIDENT CASTILLO

1. DIRECT STAFF TO CEASE ANY ACTION RELATING TO THE PRIVATIZATION OF COMMERCIAL SOLID WASTE COLLECTION SERVICES UNTIL THE END OF THE CURRENT CONTRACT WITH SMG, AT WHICH TIME A STUDY CAN BE DONE INDICATING THE COSTS/BENEFITS ASSOCIATED WITH THE PRIVATIZATION OF THE CONVENTION CENTER
2. DIRECT STAFF TO INVESTIGATE THE POSSIBILITY OF ASSESSING FRANCHISE FEES TO PRIVATE SOLID WASTE HAULERS CONDUCTING BUSINESS IN THE CITY OF FRESNO AND RETURN IN 45 DAYS WITH RECOMMENDATIONS

Councilmember Duncan stated there would be time to discuss this item but for many good reasons it was inappropriate for the item to be on the agenda at this time and made a motion to table the matter.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled 5:00 p.m. item tabled 120 days, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan
Noes :	Perea, Sterling, Castillo
Absent :	None

(10:30 A.M.) HISTORIC PRESERVATION - CONSIDER NOMINATIONS TO THE LOCAL REGISTER OF HISTORIC RESOURCES

1. RESOLUTION - DESIGNATING THE BENHAM ICE CREAM COMPANY/DALE BROTHERS'S COFFEE COMPANY, LOCATED AT 1420 AND 1432 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES
2. RESOLUTION - DESIGNATING THE DALE BROTHERS'S COFFEE CAN SIGN, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES
3. RESOLUTION - DESIGNATING THE BENHAM ICE CREAM COMPANY/DALE BROTHERS'S COFFEE COMPANY BUILDING, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES
4. RESOLUTION - DESIGNATING THE CEARLEY-TWINING HOME, LOCATED AT 625 E. HOME AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES
5. RESOLUTION - DESIGNATING THE NIS JOHNSON HOME, LOCATED AT 601 E. PINE AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

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6. RESOLUTION - DESIGNATING SHAM'S RIO GRANDE SERVICE STATION, LOCATED AT 205 FULTON STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

(*NOTE - ACTION TAKEN LATER IN THE MEETING CONTINUING THE ENTIRE ITEM TWO WEEKS)

Relative to the 2nd address/building in Resolution #1 (1432 "H" Street), Planning & Development Director Yovino advised staff received a report late yesterday from a interested citizen expressing a concern and explained, requested Council not take action on that building and that it be continued two weeks so staff can review the issue, and also requested he be allowed to get into the back of the Benham Ice Cream/Jon Jon's facility as the late information received may relate to the rear portion . Brief discussion ensued and the request to continue the 1432 "H" Street portion for two weeks was accepted (*see note above for later action).

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved as modified, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

CONSIDER CONSENT CALENDAR:

President Castillo advised Gloria Torrez could not be present and requested her comments be entered into the record as follows:

1. Consent calendar items are not routine and should be discussed and voted upon separately.
2. Items 1-B and 1-O: Request funds not be taken from FAX.
3. Items 1-J and 1-S: Request the city accept clean air diesel fuel as it is more affordable and dependable; don't accept polluters which are natural gas.
4. Item 1-V: Opposed as funds will be abused.

Barbara Hunt, 2475 S. Walnut, spoke to the importance of Item 1-A and the need to keep money for railroad crossings; questioned what the problem/intent of the issue was with Item 1-C noting she had family who lived in the area; spoke in opposition to Items 1-D and 1-O; and spoke in general to Items 1-P, 1-Q and 1-R.

Alex Correa, FCEA, questioned when he could speak to the tabling of the 5:00 p.m. item and was informed he could speak under the public comment period scheduled at 9:00 a.m..

(1-A) RESOLUTION - 15TH AMENDMENT TO AAR 2004-209 AUTHORIZING THE LOAN OF \$170,000 FROM UGM RR CROSSING/ AT-GRADE ZONE A/D TO UGM PARK ZONE 4 TO FINANCE THE PURCHASE OF A PARK SITE AT THE NORTHEAST CORNER OF . GETTYSBURG AND N. VISTA AVENUES (CONSIDERED AGAIN LATER IN THE MEETING)

(1-E) RENEW THE LEASE AGREEMENT WITH COMPREHENSIVE YOUTH SERVICES (CYS)
(CONTINUED TO SEPTEMBER 28, 2004, FOR DISCUSSION/ACTION)

(1-M) RESOLUTION - 6TH AMENDMENT TO PAR 2004-210 ADDING ONE STAFF ASSISTANT TO THE PLANNING AND DEVELOPMENT DEPARTMENT (CONTINUED TO SEPTEMBER 28, 2004, FOR DISCUSSION/ACTION)

(1-T) BILLS FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE FIRE AND POLICE AND EMPLOYEES RETIREMENTS SYSTEMS

1. CLARIFICATION OF OPTIONAL FORMS OF SETTLEMENT AND THE ADDITION OF POST-RETIREMENT OPTIONAL FORMS OF SETTLEMENT:

- a. BILL - REPEALING SECTION 2-1733, ADDING SECTIONS 2-1733 AND 2-1733.1, AND AMENDING SECTION 2-1740 IN THE FIRE AND POLICE RETIREMENT SYSTEM
 - b. BILL - REPEALING SECTION 2-1733A, ADDING SECTION 2-1733.1 AND 2-1733.1A, AND AMENDING SECTION 2-1740A IN THE FIRE AND POLICE RETIREMENT SYSTEM
 - c. BILL - REPEALING SECTION 2-1841.1 AND AMENDING SECTION 2-1848 IN THE EMPLOYEES RETIREMENT SYSTEM
- 2. COMMUNITY PROPERTY STATUS OF PRE-RETIREMENT SURVIVORSHIP BENEFITS AND MAKING TECHNICAL CORRECTIONS TO THE MARITAL DISSOLUTION PROVISIONS:**

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- a. BILL - AMENDING SECTIONS 2-1738, 2-1739 AND 2-1740 IN THE FIRE AND POLICE RETIREMENT SYSTEM
 - b. BILL - AMENDING SECTION 2-1738A AND 2-1740A IN THE FIRE AND POLICE RETIREMENT SYSTEM
 - c. BILL - AMENDING SECTIONS 2-1846, 2-1847 AND 2-1848 IN THE EMPLOYEES RETIREMENT SYSTEM
- (CONTINUED TO SEPTEMBER 28, 2004, FOR DISCUSSION/ACTION)

Councilmember Calhoun pulled the above Items 1-E, 1-M and 1-T, and President Castillo pulled Item 1-A for discussion. City Clerk Klisch noted the agenda called for items pulled from the consent calendar to be continued one week for discussion due to the full agenda unless they were time sensitive. It was noted Item 1-A was time sensitive and would be heard later in the meeting, and Items 1-E, 1-M and 1-T were laid over to September 28th for discussion and action.

ADOPT CONSENT CALENDAR:

(1-B) RESOLUTION NO. 2004-311 - CLAIMING FUNDS FOR UNCASHED CHECKS DATING FROM 1996 TO 2000

(1-C) APPROVE AMENDMENT NO. 2 TO AGREEMENT WITH DALE RUTHERFORD, AIA, FOR CONSULTANT SERVICES TO DESIGN AND MONITOR ACOUSTIC TREATMENT OF AN ADDITIONAL 20 HOMES FOR THE FRESNO YOSEMITE INTERNATIONAL AIRPORT FOR PART 150 NOISE COMPATIBILITY RESIDENTIAL ACOUSTIC TREATMENT PROGRAM LOCALLY KNOWN AS THE SMART PROGRAM UNDER AIP GRANT NO. 3-06-0087-36, AND AUTHORIZE THE DIRECTOR OF AVIATION AND PUBLIC WORKS DIRECTOR TO EXECUTE THE AMENDMENT IN AN AMOUNT NOT TO EXCEED \$32,150

(1-D) RESOLUTION NO. 2004-312 - AUTHORIZE THE DIRECTOR OF AVIATION OR DESIGNEE TO EXECUTE ALL IMPLICATED DOCUMENTATION FOR THE FOLLOWING ACTIONS INCLUDING PRE-APPLICATION AND APPLICATION TO THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR AIRPORT IMPROVEMENT PROJECT (AIP) GRANTS FOR FEDERAL FYs 2005, 2006 AND 2007 FOR BOTH FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI) AND FRESNO CHANDLER EXECUTIVE AIRPORT (FCH) AS SHOWN IN THE CITY'S FY 2005 BUDGET CAPITAL IMPROVEMENT PLAN; ACCEPTING FAA AIP GRANT(S) FOR FY 2005 AND FY 2006 PROJECTS AT BOTH AIRPORTS; ACCEPTING ALL SUBSEQUENT AMENDMENTS THERETO OFFERED BY THE FAA; AND AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF GRANTS AND ALL SUBSEQUENT AMENDMENTS THERETO OFFERED BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AERONAUTICS DIVISION FOR MATCHING FUNDS ON FY 2005 AND 2006 FAA-APPROVED PROJECTS AT CHANDLER AIRPORT

(1-F) APPROVE AGREEMENT WITH THE AMERICAN LEGION FOR REMOVAL/RELOCATION AND RESTORATION OF THE ROEDING PARK WAR MEMORIAL "MERCY BOXCAR"

(1-G) RESOLUTION NO. 2004-313 - 16TH AMENDMENT TO AR 2004-209 APPROPRIATING \$20,000 FROM THE FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION (EOC) INTO THE POLICE DEPARTMENT'S AMERICORPS GRANT FUNDS FOR THE COORDINATION OF THE 2004-2005 FRESNO SAFE AND PROUD NEIGHBORHOODS PROJECT

(1-H) APPROVE AGREEMENT TO AUTHORIZE THE CITY TO ENTER INTO A CONTRACT WITH THE 21ST DISTRICT AGRICULTURE ASSOCIATION TO PROVIDE POLICE SERVICES AT THE 2004 FRESNO DISTRICT FAIR

(1-I) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH W. SOLUTIONS, INC, FOR THE PURPOSE OF CONTINUING A HEALTH FITNESS PROGRAM FOR THE POLICE DEPARTMENT

(1-J) RESOLUTION NO. 2004-314 - AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN A CONTRIBUTION AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION, AND REPEALING PREVIOUSLY ADOPTED RESOLUTION NO. 2004-92

(1-K) AWARD A CONTRACT TO STEVE DOVALI CONSTRUCTION OF FRESNO IN THE AMOUNT OF \$477,240 FOR VAN NESS AND WILSON AVENUES INSTALLATION OF AN 8" WATER MAIN BETWEEN GETTYSBURG AND ASHLAN AVENUES

(1-L) AWARD ONE-YEAR REQUIREMENTS CONTRACTS WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS FOR USED LIGHT DUTY VEHICLES TO HEDRICK'S CHEVROLET OF CLOVIS IN THE AMOUNT OF \$120,000 FOR BID ITEMS 1 THROUGH 5, GM VEHICLES, AND TO FUTURE FORD OF CLOVIS IN THE AMOUNT OF \$120,000 FOR BID ITEMS 6 THROUGH 9, FORD VEHICLES

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(1-N) RESOLUTION NO. 2004-315 - 7TH AMENDMENT TO PAR 2004-210 CONVERTING THREE PERMANENT PART-TIME ADMINISTRATIVE CLERKS AND TWO PERMANENT PART-TIME CODE ENFORCEMENT SPECIALISTS TO ONE FULL-TIME SENIOR ADMINISTRATIVE CLERK, ONE FULL-TIME ADMINISTRATIVE CLERK I/II, AND TWO FULL-TIME CODE ENFORCEMENT SPECIALISTS

(1-O) RESOLUTION NO. 2004-316 - 14TH AMENDMENT TO RE-BUDGET CAPITAL PROJECTS FROM VARIOUS COUNCIL DISTRICT INFRASTRUCTURE FUNDS BASED ON THE CARRY-OVER BALANCES FROM FY 2004

(1-P) RESOLUTION NO. 2004-317 - 22ND AMENDMENT TO AAR 2004-209 APPROPRIATING \$124,200 FOR THE PURPOSE OF FUNDING RIGHT-OF-WAY ACQUISITION ON THE WEST SIDE OF S. MARKS AVENUE, SOUTH OF WHITESBRIDGE ROAD, THAT IS REQUIRED AS A DEVELOPMENT CONDITION OF TRACT NO. 5206, ALSO KNOWN AS RUNNING HORSE

(1-Q) RESOLUTION NO. 2004-318 - INTENT TO ANNEX FINAL TRACT NO. 5078 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 78 AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES

(1-R) RESOLUTION NO. 2004-319 - INTENT TO ANNEX FINAL TRACT NO. 5228 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 80 AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES

(1-S) BILL NO. B-89 - AMENDING SECTIONS 9-1901, 9-1902 AND 9-1906 OF THE FRESNO MUNICIPAL CODE RELATING TO PROCUREMENT OF LOW EMISSION VEHICLES BY CITY DEPARTMENTS

(1-U) REMOVED FROM THE AGENDA

(1-V) BILL NO. B-82 - ORDINANCE NO. 2004-88 - ESTABLISHING CRITERIA FOR REIMBURSEMENT OF EXPENSES FOR MAYOR AND COUNCIL MEMBERS

(2 - 0) On motion of Acting President Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Castillo
Noes	:	Dages
Absent	:	None

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(9:00 A.M. #1) PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATIONS:

APPEARANCE BY BARBARA HUNT, 2475 S. WALNUT, REQUESTING AN INJUNCTION TO STOP ALL REDEVELOPMENT AGENCY PROJECTS

Appearance made; no action taken.

APPEARANCE BY ALEX CORREA, FCEA BUSINESS REPRESENTATIVE, AND MARINA MAGDELENA, LOCAL 39, EXPRESSING CONCERN AND OPPOSITION TO COUNCIL'S ACTION TABLING THE 5:00 P.M. ITEM RELATIVE TO PRIVATIZATION OF COMMERCIAL SOLID WASTE COLLECTION SERVICES

Appearances made; no action taken.

Councilmember Sterling stated although she seconded the motion to approve the agenda she did not support tabling the 5:00 p.m. item, with City Attorney Montoy stating the record/minutes would show her vote opposing that motion.

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(9:00 A.M. #2) PRESENTATION BY THE REGIONAL JOBS INITIATIVE (RJI) TOURISM CLUSTER TASK FORCE CHAIR REGARDING ESTABLISHMENT OF A REGIONAL TOURISM AND VISITOR AUTHORITY

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1. DIRECT STAFF TO RETURN WITH A CONTRACT IN THE AMOUNT OF \$150,000 FOR TOURISM SERVICES TO BE PROVIDED THE REGIONAL TOURISM AND VISITOR AUTHORITY CONTINGENT UPON FORMATION OF SUCH AUTHORITY WITH FUNDING TO COME FROM ADDITIONAL SAVINGS WITHIN OPERATIONS OF THE CONVENTION CENTER FACILITIES

Cynthia Downing, Chair of the RJI Tourism Cluster Task Force, gave a lengthy PowerPoint presentation on the task force's efforts and proposed regional tourism and visitor authority and opportunities to be had, and Assistant City Manager Souza spoke to the funding being requested upon the creation of an authority.

Speaking to the issue and expressing concerns with the funding were: Barbara Hunt, 2475 S. Walnut, and Harley Turney, no address provided.

Councilmember Dages spoke in strong support of the issue and the need to incorporate all cities, and made a motion to direct staff as outlined above. Councilmember Duncan seconded the motion; commented on and presented questions relative to Fresno County's existing contribution, if other cities would also contribute financially, if tourism was an opportunity to employ the hard to employ, need for private sector element in the authority, and Measure J; and also expressed his strong support.

Upon question of Councilmember Calhoun, Mr. Souza stated this proposal would move forward regardless of Measure J results. Councilmember Calhoun stated he felt this was premature and all the pieces were not in place; stated he wanted to hear Clovis *would* be a part of this -- not *might*; and stated he was supportive of the direction but felt this needed to be delayed until after the election to see whether Measure J passes. Mr. Souza stated this was not premature, staff was only asking for support in the direction this was moving towards, and clarified there was no binding contract and staff would come back with a final presentation on the formation of the authority. President Castillo added he would like to have seen some key players present, with Ms. Downing advising the task force had a solid commitment from Clovis.

Extensive discussion ensued. Councilmember Boyajian stated Councilmember Calhoun made some good points, **(3 - 0)** stated this proposal was vague, and spoke at length to the need for collaboration, the structure of the authority, and the tremendous entities that needed to be included, with Ms. Downing responding. Mr. Overfell of SMG, Ms. Downing and Mr. Souza responded to questions/comments of Councilmember Sterling and Acting President Perea relative to whether SMG had any concerns with the city's tourism, what the CVB was doing wrong to make Council want to take money from their budget (with Mr. Overfell clarifying funds would come from Convention Center operations and not the CVB), if lack of hotel rooms was part of the tourism problem, if the task force has worked with downtown and the Tower District to expand the trolley service, why the CVB was not here and if they were invited, the county tourism committee, the tourism summit and what groups were included, if the authority would register with the Secretary of the State, if the \$150,000 contribution was legal, if the final component of the authority would be to take in all areas of tourism/convention services/all entertainment elements of Fresno county, how board members' salaries would be established, concern with too many missing components and if the entire picture was looked at relative to structure of the authority, concern with the process for the smaller cities, consequence if Measure J does not pass, if the county was making a direct contribution, different events going after different kinds of tourists, and need for more information before expending \$150,000.

City Manager Hobbs stated what was before Council was a well thought-out proposal to increase tourism and reiterated this was not contract signing time, stated this was an opportunity to get any and all questions answered, and upon his request Pete Weber, RJI Co-Chair, spoke to the county's tourism efforts the past twenty years and stated he personally found it embarrassing, spoke to what has been accomplished by Ms. Downing during the past five months, and asked Council to work with the task force.

Councilmember Dages emphasized everyone wanted jobs, noted volunteers were here taking the lead and stated Council as leaders needed to step forward, **(4 - 0)** stated politicians needed to be kept off the authority if at all possible, and stressed this was an opportunity to do something positive for Fresno and apologized in advance if this is not approved. Councilmember Sterling stated she supported Measure J but she also supported Measure Z and expressed her concern that the task force was not championing Measure Z and that area of tourism would be lost if Measure Z fails.

President Castillo expressed concerns relative to 35% of the funds going towards salaries and the structure/composition of the authority; suggested Council delay action until October 19th and make a commitment to attend the October 12th meeting to provide input and obtain additional information; thanked Ms. Downing for all her work, clarified Council always appreciates all the work done by volunteers and asked the task force to not assume a negative vote was against their efforts and it only meant additional information was

being sought; and made an alternate motion to delay action until October 19th to obtain additional information. Ms. Montoy noted a motion was already on the floor and that needed to be acted upon first.

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A motion of Councilmember Dages, seconded by Councilmember Duncan, to direct staff to return with a contract in the amount of \$150,000 for visitor ad tourism services to be provided by the Regional Tourism and Visitor Authority, with funding for the contract to come from additional savings generated from the operation of the Convention Center facilities by SMG failed, by the following vote:

Ayes : Dages, Duncan
 Noes: : Boyajian, Perea, Castillo
 Absent : None
 Abstain : Calhoun, Sterling

On motion of President Castillo, seconded by Acting President Perea, duly carried, RESOLVED, staff directed to continue working on the concept of a Regional Tourism and Visitors Authority (RTVA) and return to Council with a more detailed report on the formation and Responsibilities of an RTVA, and at that time Council shall consider direction to proceed with a contract with the proposed RTVA for tourism services, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(10:30 A.M.) HISTORIC PRESERVATION - CONSIDER NOMINATIONS TO THE LOCAL REGISTER OF HISTORIC RESOURCES

- 1. RESOLUTION - DESIGNATING THE BENHAM ICE CREAM COMPANY/DALE BROTHERS'S COFFEE COMPANY, LOCATED AT 1420 AND 1432 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- 2. RESOLUTION - DESIGNATING THE DALE BROTHERS'S COFFEE CAN SIGN, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- 3. RESOLUTION - DESIGNATING THE BENHAM ICE CREAM COMPANY/DALE BROTHERS'S COFFEE COMPANY BUILDING, LOCATED AT 1420 "H" STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- 4. RESOLUTION - DESIGNATING THE CEARLEY-TWINING HOME, LOCATED AT 625 E. HOME AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- 5. RESOLUTION - DESIGNATING THE NIS JOHNSON HOME, LOCATED AT 601 E. PINE AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**
- 6. RESOLUTION - DESIGNATING SHAM'S RIO GRANDE SERVICE STATION, LOCATED AT 205 FULTON STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES**

(*NOTE - ACTION TAKEN LATER IN THE MEETING CONTINUING THE ENTIRE ITEM TWO WEEKS)

Upon question of Councilmember Boyajian, President Castillo clarified only the 1432 "H" Street portion of Resolution #1 was continued for two weeks at the request of the planning & development director.

City Attorney Montoy noted at the time Mr. Yovino raised the request to continue that portion she did not have the benefit of the letter, advised since then she reviewed the letter and stated at this time it seemed more appropriate to continue the entire issue and explained.

On motion of Councilmember Duncan, seconded by Councilmember Boyajian, duly carried, RESOLVED, the above entitled 10:30 a.m. item in its entirety continued two weeks to October 5, 2004, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Sterling, Castillo
 Noes : Perea
 Absent : None

(9:20 A.M. #1) CLOSED SESSION:**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

1. CITY OF FRESNO V. JASON ANDREW TURNBULL, ET AL.
2. CITY OF FRESNO V. CLIFFORD TUTELIAN, ET AL, FRESNO SUPERIOR COURT CASE NO. 03 CE CG 02180 DSB

144-80**9/21/04****(B) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAMES:**

1. CITY OF FRESNO V. PINEDALE COUNTY WATER DISTRICT
2. CITY OF FRESNO V. PINEDALE PUBLIC UTILITY DISTRICT

The City Council met in closed session in Room 2125 at the hour of 11:12 a.m. and began consideration of the above issues. At 12:10 p.m. President Castillo reported Council was breaking for lunch and would reconvene in closed session at 2:00 p.m..

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LUNCH RECESS - 12:10 P.M. - 2:07 P.M.

The City Council reconvened in closed session and concluded their consideration of the above issues.

(2:15 P.M. #1) JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY:**(A) PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT - TITLE: CONSIDERATION**

The City Council convened in joint session with the Redevelopment Agency at 2:35 p.m. in Room 2125 to consider the above issue and reconvened in regular open session at 2:40 p.m.

(9:20 A.M. #2) CLOSED SESSION ANNOUNCEMENT(S)

City Attorney Montoy advised there were no announcements from regular closed session and an announcement would be made at the joint meeting with the Redevelopment Agency on the Agency item.

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(10:00 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 75, FINAL TRACT MAP NO. 5262

- 1. RESOLUTION NO. 2004-320 - ANNEXING TERRITORY TO CFD NO. 2/ANNEXATION NO. 75/TRACT 5262 AND AUTHORIZING THE LEVY OF A SPECIAL TAX**
- 2. RESOLUTION NO. 2004-321 - CALLING A SPECIAL MAILED-BALLOT ELECTION**
- 3. RESOLUTION NO. 2004-322 - DECLARING ELECTION RESULTS**
- 4. BILL NO. B-90 - ORDINANCE NO. 2004-89 - LEVYING A SPECIAL TAX FOR PROPERTY TA YEAR 2003-2004 AND FUTURE TAX YEARS**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-320, 2004-321 and 2004-322 hereby adopted, and the above entitled Bill No. B-90 adopted as Ordinance No. 2004-89, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(10:05 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 76, FINAL TRACT MAP NO. 5136

1. RESOLUTION NO. 2004-323 - ANNEXING TERRITORY TO CFD NO. 2/ANNEXATION NO. 76/TRACT 5136 AND AUTHORIZING THE LEVY OF A SPECIAL TAX

2. RESOLUTION NO. 2004-324 - CALLING A SPECIAL MAILED-BALLOT ELECTION

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3. RESOLUTION NO. 2004-325 - DECLARING ELECTION RESULTS

4. BILL NO. B-91 - ORDINANCE NO. 2004-90 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing. Interim Public Works Director Kirn reviewed the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-323, 2004-324 and 3004-325 hereby adopted, and the above entitled Bill No. B-91 adopted as Ordinance No. 2004-90, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(10:15 A.M.) HEARING ON APPEAL FILED BY RICHARD STEWART OF THE DIRECTOR'S DETERMINATION TO REQUIRE REPLACEMENT OF A WHEEL CHAIR RAMP ON SIDEWALK AT 211 W. HULBERT COURT AS PROVIDED FOR UNDER FMC SECTION 11-214

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Richard Stewart, appellant, reviewed the issue and stated he should not have to pay to replace the ramp as he did not cause the damage and explained.

Interim Public Works Director Kirn spoke to the issue and appeal, explained city policy and staff's position, noted this was a Council policy call and stated staff was enforcing the code, advised another property owner was sent a letter and was being requested to make the same repairs, submitted a photograph depicting tire tracks going across the subject ramp, and clarified a waiver could set a precedent and recommended the appeal be denied.

President Castillo stated a lot of the handicap ramps in that area went nowhere and advised he had photos, noted there were other ramps with cracks and questioned how staff could charge one individual and not the others, with Mr. Kirn responding, and stated this sounded like Mr. Stewart was being penalized as he was the only one picked out of the entire subdivision, and requested staff sit down and meet further with Mr. Stewart and work out something equitable and also look at doing the same thing with the other residents in the area with cracked sidewalks, with City Manager Hobbs responding.

Chief Assistant City Attorney Sanchez noted a director's determination was made and it could be overturned after making certain findings, and advised the other options available to council were to affirm the director's determination or uphold the appeal. Upon question of Councilmember Duncan, Mr. Kirn confirmed it was staff's opinion the damage would not have occurred if the vehicles on Mr. Stewart's property had not driven over the ramp. Councilmember Duncan made a motion to reject the appeal and support staff. Councilmember Calhoun seconded the motion but questioned if one was even necessary, pointed out the director's determination would stand if Council takes no action and stated that would be the appropriate way to go, and withdrew his second and stated he hoped the motion-maker would withdraw his motion.

Lengthy discussion continued. Mr. Sanchez, Mr. Kirn, Mr. Stewart, Mr. Hobbs and Councilmember Dages responded to questions and comments of Councilmember Boyajian, Acting President Perea, Councilmember Sterling and President Castillo relative to

whether the appeal went to the hearing officer or directly to Council, perception that the process is flawed since people are asked to make repairs when permits are pulled, Council being unable to make findings/the property owner being stuck in the middle/perception of selective enforcement/Mr. Stewart being penalized for improving his property, what was being constructed on the property, if the process needed to be changed, lack of information for Council to make an informed decision and need for more proof that Mr. Stewart caused the damage, policy/process relative to responsible party, Mr. Stewart's building permit and what work was outstanding, a restaurant at Orange & Butler and how it was allowed to open without infrastructure improvements, who/how handicap ramps are determined, some installations making no sense/going nowhere and there being pictures to prove that, and need to involve the ADA Council in determining handicap locations to save dollars. Mr. Hobbs stated he wanted to look at the particular locations and get a report back to Council next week.

144-82

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(5 - 0) President Castillo made a motion to overturn the director's determination. Councilmember Duncan urged Council to let the motion die, noted there was compelling evidence that the homeowner caused the damage, and encouraged staff to continue to be aggressive. Upon call, President Castillo's motion died due to lack of a second. President Castillo stated he was very disappointed as Mr. Stewart was being penalized and the city was asking him to pay \$1,500 for a ramp that went nowhere. There was no further discussion.

- - - -

(10:50 A.M.) HEARING ON REZONE APPLICATION NO. R-04-27 AND ENVIRONMENTAL FINDINGS FILED BY BONADELLE HOMES, INC., PROPERTY LOCATED ON THE WEST SIDE OF N. LOCAN AVENUE BETWEEN E. DAKOTA AND E. SHIELDS AVENUES IN COUNCIL DISTRICT 4

1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-04-27, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT

2. BILL NO. B-92 - ORDINANCE NO. 2004-91 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE PROPERTY FROM AE-20 TO R-1/UGM

President Castillo announced the time had arrived to consider the issue and opened the hearing. Councilmember Calhoun briefly left the meeting at 3:16 p.m. Planner Braun reviewed the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of President Castillo, seconded by Councilmember Dages, duly carried, **RESOLVED**, the environmental finding of Environmental Assessment No. R-04-27/T-5312, dated July 13, 2004, that he project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-92 rezoning the subject property adopted as Ordinance No. 2004-91, by the following vote:

Ayes :	Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	Calhoun

- - - -

(11:00 A.M.) HEARING TO CONSIDER THE USE OF \$311,224 AWARDED TO THE CITY BY THE U.S. DEPARTMENT OF JUSTICE TO UNDERTAKE THE LOCAL LAW ENFORCEMENT BLOCK GRANT (LLEBG) PROGRAM

1. RESOLUTION NO. 2004-326 - AUTHORIZING AND ACCEPTING THE LLEBG 2004 AWARD OF \$311,224, THE MATCH REQUIREMENT OF \$34,580 AND THE EXECUTION OF ANY RELATED DOCUMENTS

2. RESOLUTION NO. 2004-327 - 20TH AMENDMENT TO AAR 2004-209 TRANSFERRING \$34,600 TO PROVIDE MATCH FUNDS FOR THE POLICE DEPARTMENT'S LLEBG

3. RESOLUTION NO. 2004-328 - 21ST AMENDMENT TO AAR 2004-209 APPROPRIATING \$482,3000 TO FUND EXPENSES ASSOCIATED WITH THE POLICE DEPARTMENT'S 2002 AND 2003 LLEBGs

4. APPROVE THE REALLOCATION OF FUNDS IN CONTINGENCY FOR THE LLEBG

President Castillo announced the time had arrived to consider the issue and opened the hearing. Councilmember Calhoun returned to the meeting at 3:17 p.m. Chief Dyer reviewed the issue as contained in the staff report as submitted and noted the spending plan was attached.

Upon call, no one wished to be heard and President Castillo closed the hearing.

A motion and second was made to approve staff's recommendation. Chief Dyer responded briefly to questions of Councilmembers Boyajian and Calhoun relative to specifics of the spending plan and if these funds could be used for code enforcement personnel.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-326, 2004-327 and 2004-328 hereby adopted, and the reallocation of funds in contingency approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

144-83

9/21/04

(3:15 P.M.) WORKSHOP PRESENTED BY THE CITY'S AMERICANS WITH DISABILITIES ACT (ADA) COUNCIL

The workshop was presented by Ed Eames, Chair of the ADA Advisory Council, who spoke to their goal, activities the Council has participated in, and their accomplishments as contained in the report as submitted to Council.

Committee Member Fidel Medina and Mr. Eames spoke to housing issues, and Jose Barraza spoke to the need to have members of the disabled community appointed and serve on the Human Relations Commission and Planning Commission. Other members of the committee introduced themselves and spoke briefly. Upon question of Mr. Eames, Council members Perea, Sterling, Dages and Boyajian stated the ADA Council should focus on the areas of housing, curb cuts and mobility/ability to get around. The Council was thanked for their work and presentation and there was no further discussion.

(2:30 P.M.) HEARING TO CONSIDER THE APPEAL OF WESLEY AND VANHDAO FLOWER (APPELLANTS) REGARDING THE SUPPLEMENTAL ORDER OF THE HEARING OFFICER TO ALLOW THE ADMINISTRATIVE ABATEMENT OF A DANGEROUS BUILDING AT 2475 S. LILY

(6 - 0) City Attorney Montoy advised the procedures for this hearing were different from others and clarified/explained the nature of the appeal, the applicable code sections, the administrative record, the Brown Act requirement allowing the public to be heard but Council being unable to consider any testimony as additional evidence, and advised of the options available to Council. Upon question, Ms. Montoy clarified evidence/testimony other than the administrative record could not be considered and it was Council's duty to make a decision and take action this date.

Appellant Wesley Flowers stated the hearing officer's decision was not supported by substantial evidence upon the whole record and his legal analysis and conclusion were erroneous and explained, stated their rights to due process were violated, elaborated on specifics of the issue, and requested Council revoke the decision of the hearing officer and stated the ruling was unconstitutional. Vanhdao Flowers read into the record a letter from The Travis Family of 2506 S. Lotus Avenue supporting the Flowers' and their efforts.

Jose Luis Barraza, Center for Independent Living/System Change Advocate, stated this was not only an issue of discrimination but also one of housing for the disabled and explained.

Upon call, no one else wished to be heard and President Castillo closed the public hearing.

Code Enforcement Manager Villa responded to questions of Acting President Perea and/or clarified issues relative to vacant/boarded up homes in his district and what needed to be done to get enforcement action, if this matter was similar to vacant buildings, and how a building is determined dangerous. Councilmember Sterling advised her office conducted an investigation on this matter and noted Mr. Flowers followed the correct procedure, and upon her question as to whether she could continue speaking to the background of the issue Ms. Montoy stated decisions needed to be based on the administrative record only and not any external evidence. Relative to the administrative record, City Manager Hobbs stated what he found the most germane was the sheet entitled "Staff Working Notes" which contained a chronology of actions taken by the hearing officer and elaborated.

A motion and second was made to affirm the hearing officer's decision.

President Castillo spoke to the Case History Report and the 12 photos that were taken and then inadvertently erased from the floppy disk stating they would have been compelling evidence; expressed concern that the hearing officer made a decision without the photos being made available to him; spoke to photos contained in the Council packet dated 6/1/04 and noted they depicted running water so he would assume the plumbing was not removed and another showed an operable PG&E gas meter; again questioned how the hearing and code enforcement officers could make a decision that a building is dangerous when the code enforcement officer removed, lost or deleted photos; pointed out the code enforcement officer's records indicated the building was boarded up and fenced and questioned how it could be a danger to the community; noted the report clearly stated a code enforcement officer or any city employee needed consent from the owner to enter the property and it was his understanding that permission was never granted or asked for by city staff; and stated he would not support the motion on the floor because he believed the hearing officer made a decision based on assumptions and not necessarily on photos that should have been available to affirm the decision.

On motion of Councilmember Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, the City of Fresno Hearing Officer's Supplemental Order hereby affirmed, by the following vote:

144-84

9/21/04

Ayes : Boyajian, Calhoun, Dages, Duncan
 Noes : Perea, Sterling, Castillo
 Absent : None

President Castillo clarified to Mr. Flowers that his request to overturn the decision was denied, and Ms. Montoy advised her office would prepare a written decision for the City Council which the Council President would sign, it would be mailed to Mr. Flowers, and he would have an opportunity to file an appeal with the Superior Court within 90 days.

CONTESTED CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2004329 - 15TH AMENDMENT TO AAR 2004-209 AUTHORIZING THE LOAN OF \$170,000 FROM UGM RR CROSSING/ AT-GRADE ZONE A/D TO UGM PARK ZONE 4 TO FINANCE THE PURCHASE OF A PARK SITE AT THE NORTHEAST CORNER OF . GETTYSBURG AND N. VISTA AVENUES (*CONTINUED FROM EARLIER IN THE MEETING*)

President Castillo stated his questions had been answered by staff and made a motion to approve the item.

On motion of President Castillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-329 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(3:00 P.M.) HEARING ON SITE PLAN REVIEW APPLICATION NO. S-04-149 AND ENVIRONMENTAL FINDINGS FILED BY DONABEDIAN-HANNAH, AS RELATED TO A PROPOSED SINGLE FAMILY RESIDENTIAL BUILDING SETBACK FROM THE SOUTHERN EDGE OF THE SAN JOAQUIN RIVER BLUFF, PROPERTY LOCATED AT 7693 N. PLEASANT AVENUE IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT A FINDING OF CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. S-04-149

2. RESOLUTION NO. 2004-330 - APPROVING A REDUCED BUILDING SETBACK FOR THE SAN JOAQUIN RIVER BLUFF EDGE PROPOSED BY SITE PLAN REVIEW APPLICATION NO. S-04-149

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Marple reviewed the issue as contained in the staff report as submitted and recommended approval.

Partner Robert Donabedian advised he was present to answer any questions.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Upon question of Councilmember Boyajian, Planning Manager Haro stated the reason for the minimum building setback from the bluff was aesthetics, there were others like this, and this was a Council policy call.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of Categorical Exemption, dated September 13, 2004, hereby approved, and the above entitled Resolution No. 2004-330 approving Site Plan Review Application No. S-04-149 allowing for a reduced residential building setback from the San Joaquin River bluff edge hereby adopted in accordance with Exhibit A dated April 21, 2004, and subject to the conditions of approval dated September 3, 2004, as outlined in the staff report, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea
Noes :	Boyajian, Sterling, Castillo
Absent :	None

144-85

9/21/04

(4:30 P.M.) RESOLUTION NO. 2004-331 - ESTABLISHING LEGISLATIVE POLICY FOR THE "NO NEIGHBORHOOD LEFT BEHIND" PLAN - PRESIDENT CASTILLO

President Castillo stated the purpose of this resolution was to implement an action taken by Council on a 5-2 vote to have city crews do the work; stressed action taken by this Council should be upheld; stated if a decision is changed or someone wishes to do otherwise it should come back to Council for discussion in the open and not behind closed doors; clarified action this date would imply that this Council wants the work of the NNLB to continue as originally decided; stated staff changed the reasons for the Pave Off and explained; and stated it was too bad Council was still discussing this issue today and he hoped adoption of this resolution would avoid dragging this issue on and on.

Assistant City Manager Ruiz stated at issue was how to carry out a very ambitious, positive and good program for this community; clarified staff remains committed to carrying out the NNLB program and that has not changed and the commitment to city employees has not changed; and stated the Pave Off was purely a way to maximize taxpayer dollars. City Manager Hobbs referenced the Q & A contained in the agenda item stating it directly answered the key questions that keep coming up. President Castillo noted the one question it did not answer was why city crews are not being allowed to bid on the same project that the private sector will be bidding on.

Speaking to the issue were: Will Lyles, Lyles Diversified, who apologized for any breakdown the industry may have caused and spoke in support of allowing the process to move forward with the Pave Off; Alex Correa, FCEA, who spoke to the lack of managerial leadership and in opposition to privatization (**7 - 0**); Marina Magdalena, Local 39, expressed concerns with the process and opposition to the Pave Off; John Tobar, city employee, opposed to the Pave Off; Albert Vann, city employee, opposed to the Pave Off; and Todd Hill, Granite Construction Co., support for the Pave Off.

Relative to President Castillo's earlier question, Mr. Ruiz stated the reason city crews would not be able to bid on two of the three bundles was because there was more to neighborhood infrastructure type of work than just cost and he believed if the work were to be strictly bid out staff would not be able to adequately give a full evaluation and explained.

Deputy Mayor Montero stated falsehoods about the Mayor were discussed and he had to defend the Mayor's character; stated it would have been easier for the administration to tell the private sector a vote was already taken but the administration said they made a mistake due to new information that came forth and they wanted to see if they could correct that mistake; emphasized public and private sector employees were great, this did not have to be exclusive, and he hoped both could work together to make a great community; and stressed the Mayor never made a back room deal, *period!*, he, the Mayor and the community were insulted by that and added that was not the way the administration did business here, and urged everyone to be civil and keep the debate on the facts of the issue and not the hyperbole of someone's imagination.

Continued speakers were: Mark Fox, city employee, and an unidentified water division employee, support for city employees/opposed to the Pave Off.

Upon call, no one else wished to be heard and President Castillo closed public testimony.

President Castillo made a motion to adopt the resolution, and relative to Deputy Mayor Montero's comments clarified this was the first time he heard a mistake was made and staff was looking to do things different, noted the only time he learned privatization was in the process was through a memo given to him, and reiterated at no time did anyone come to him and say a mistake was made and something different should have been done. **Mr. Montero responded and also clarified issues relative the meeting that took place with the public and private sectors, the Mayor's Office and a Council representative. Noting this was a \$45 million issue President Castillo stated he as the Council President, or Acting President Perea who co-authored the item with the Mayor, should have been informed of the meeting. Acting President Perea seconded the motion on the floor.

Lengthy discussion continued. Councilmember Duncan stated this was not about who would do the work but about what the Charter was and what the powers of the Council and the Mayor were all about; stated a key issue that the Council may not like was the Mayor and City Council run the City -- not just the Council, and added the balance of power was very clearly defined in the Charter and was voted on by the citizens as their preferred form of government; stated this legislative was very dangerous and very inappropriate and needed to be defeated; stated if Council did not like the Strong Mayor Form of Government any member could bring an item to Council to place a measure on the ballot going back to the old form of government; and stated the Mayor had every right to do what he was doing , the Pave Off was going to happen, and requested the Charter be respected and not challenged.

****Note:** On 9/28/04, during approval of the 9/21/04 minutes, Councilmember Sterling clarified for the record her council assistant did not attend the meeting and Acting President Perea clarified he did not attend the meeting as stated by Deputy Mayor Montero in his comments.

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Acting President Perea concurred this was a huge issue and a big deal; stated the spirit of the Charter was fulfilled when the Mayor and five council members -- a super majority -- agreed on the concept of the program, the funding and the implementation; noted the importance of this legislative action was the Council has the opportunity to tell the Mayor "no" and that the work will be done the way it was presented and intended to be done in the first place but acknowledged a simple majority vote would not muster today; questioned if the reason for the Pave Off was to once and for all decide the issue of who could do it cheaper and better and or to see if the private and public could work together; stated in politics and government there will always be new information down the road that will change a person's position but the problem was at some point you need to come to and stand by your decision and move forward and Council did that four times; and stated the issue for him was about process and expressed his extreme disappointment with taking a very momentous occasion in the city's history and muddying it up with all that has occurred these past couple of months.

Councilmember Boyajian stated Pave Offs have occurred the past six years and city crews are better and have advantages and explained; stressed the private industry should have been approached in the beginning, and stated he was getting tired of this and city crews have proven themselves and elaborated at length **(8 - 0)**. Councilmember Dages presented questions relative to whether lay offs would occur if the NNLB does not materialize and if Council would get their infrastructure funds back, with Assistant Public Works/Streets Director Dilley responding. Councilmember Dages stated city crews were going to have to prove themselves one more time and clarified he supported putting the projects out to bid because that was what was best for the taxpayer and not him or the city employees.

Mr. Ruiz, Mr. Hobbs, Mr. Lyles, Mr. Montero and City Attorney Montoy responded to questions and comments of Councilmember Sterling at length relative to the city failing to contact the private industry at the beginning and if that was an oversight or not considered, the private industry finding out about the NNLB program in June, the assumption that unions would automatically be included as needed, the process not being inclusive, who the Pave Off has been explained to, if the city needed all the equipment in the original plan, if outside entities would use the equipment purchased, the original equipment list and what's been ordered, the process to hire the 56 employees, if staff could make guarantees on the 56 hires, the equipment and city employees always being part of the process and have work, how/when Mr. Lyles learned of this issue, need for assurance the city will consider city employees' interests first (with clarification made that there was no job security issue with city employees), concern with the process, **(9 - 0)** and guarantee she will look out for city employees and protect them.

Mr. Hobbs stated staff was very aggressively carrying out a program to bring long overdue infrastructure justice to all parts of the city; noted some discussion had occurred as if a decision was already been made on the results of the pave off and stated that was not true; reiterated he felt city crews were faster, better and cheaper but he could not prove that, his assumptions have been challenged, and the city was up to the competition; noted there were negative references to the "Mayor's way" and clarified the Mayor's way was what was best for the community and the taxpayer; stated he had great respect for the work of the city crews and they would prove themselves; and stated this program provided three opportunities: (1) refinement of a previously proposed strategy, (2) confidence building, and (3) ability to

create a stronger public/private unity behind the program.

President Castillo stated this discussion should not have been about who could do the work better/cheaper as that was determined on a 5-2 vote two months ago; spoke to the administration's action to circumvent the will of the Council, how the Mayor had the ability to veto Council's 5-2 action which he did not do, and how he felt the private groups contacted the Mayor long after the veto powers expired and that was when the Mayor moved forward with privatization; stressed a 5-2 vote should be followed by the Mayor and read a Charter section calling for the Mayor to execute all laws, ordinances and policies of the city; and stated if this resolution does not pass it will tell the Mayor he is right, he can do whatever he wants, and the City Council is just an advisory board.

On motion of President Castillo, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-331 hereby adopted, by the following vote:

Ayes	:	Boyajian, Perea, Sterling, Castillo
Noes	:	Calhoun, Dages, Duncan
Absent	:	None

Ms. Montoy clarified the vote taken relative to Councilmember Duncan's proposal was not formal legislative action and the Mayor did not have right to veto that action but had the right now.

Councilmember Dages left at 6:31 p.m. and was absent for the remainder of the meeting.

144-87

9/21/04

(2-A) STATUS REPORT ON THE MEDIAN ISLAND MAINTENANCE TRANSITION FROM PARKS TO PUBLIC WORKS

-and-

(2-B) DISCUSSION REGARDING URBAN FOREST AND DIRECTION TO STAFF

1. BILL FOR INTRODUCTION REPEALING ARTICLE 3 OF CHAPTER 11 AND ADDING ARTICLE 3 TO CHAPTER 11, AND AMENDING SUBSECTION (c) OF SECTION 12-1206 OF THE FRESNO MUNICIPAL CODE RELATING TO STREET TREES AND PARKWAYS

President Castillo questioned if Council wanted to lay the above matters over one week and a motion was made to lay them over. Councilmember Calhoun spoke in opposition to the motion.

A motion of Councilmember Duncan, seconded by President Castillo, to lay items 2-A and 2-B over one week failed, by the following tie vote:

Ayes	:	Duncan, Perea, Castillo
Noes	:	Boyajian, Calhoun, Sterling
Absent	:	Dages

(4-A) RESOLUTION NO. 2004-332 - IN SUPPORT OF AB 1733 RELATING TO THE PROTECTION OF CELL PHONE CONSUMERS FROM UNWANTED CALLS - PRESIDENT CASTILLO

President Castillo gave a brief overview of the issue as contained in his memorandum to Council as submitted.

On motion of President Castillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-332 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	Dages

(2-A) STATUS REPORT ON THE MEDIAN ISLAND MAINTENANCE TRANSITION FROM PARKS TO PUBLIC WORKS

Interim Public Works Director Kirn and Public Works Finance Manager Adams reported on the transition, levels of service, backlog, taxes and what has been done recently to improve the system.

Brief discussion ensued with City Attorney Montoy and Assistant Public Works/Streets Director Dilley responding to questions and comments of Councilmembers Calhoun, Boyajian, Duncan and Perea relative to need to raise the fees to adequately address the needs, what Council did with Proposition 218, request to staff to work with Council staff during this transition time, equipment needs and if a cost analysis would be coming to Council, if inmates will be used, if the CCC's work is monitored, commendation to staff on the transition, and if the problem has been fixed and if maintenance will now occur on a routine basis. There was no further discussion.

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(2-B) DISCUSSION REGARDING URBAN FOREST AND DIRECTION TO STAFF

1. BILL (FOR INTRODUCTION) - REPEALING ARTICLE 3 OF CHAPTER 11 AND ADDING ARTICLE 3 TO CHAPTER 11, AND AMENDING SUBSECTION (c) OF SECTION 12-1206 OF THE FRESNO MUNICIPAL CODE RELATING TO STREET TREES AND PARKWAYS

City Manager Hobbs suggested the item be laid over one week noting this item was of special interest to Councilmember Dages.

On motion of President Castillo, seconded by Councilmember Duncan, duly carried, RESOLVED, Item 2-B laid over one week, by the following vote:

144-88

9/21/04

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : Dages

- - - -

(2:15 P.M. #2) JOINT MEETING WITH THE REDEVELOPMENT

The City Council recessed at 6:57 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF AUGUST 31, 2004

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the Agency minutes of August 31, 2004 approved as submitted.

("A") CONSIDERATION OF ADDENDUM TO THE SECOND COOPERATION AGREEMENT BETWEEN THE CITY AND THE REDEVELOPMENT AGENCY (JOINT ACTION)

("B") CONSIDERATION AND DIRECTION ON REPORT BY THE AGENCY BOARD COMMITTEE REGARDING PROCESS FOR RECRUITMENT OF THE EXECUTIVE DIRECTOR (AGENCY ACTION)

("C") ACCEPT CITY MANAGER'S OFFICE RECOMMENDATIONS TO RETAIN MATRIX CONSULTING GROUP/ROSENOW SPAVACEK TO CONDUCT A MANAGEMENT STUDY OF THE REDEVELOPMENT AGENCY

1. AUTHORIZE THE AGENCY COMMITTEE TO NEGOTIATE A CONTRACT WITH MATRIX CONSULTING GROUP/ROSENOW SPAVACEK AND RETURN TO THE AGENCY BOARD ON SEPTEMBER 28, 2004, FOR CONTRACT APPROVAL AND CONTRACT FUNDING (AGENCY ACTION)

Councilmember Duncan noted Item "A" was time sensitive and needed to be acted on this date and recommended Items "B" and "C" be continued one week.

On motion of Councilmember Duncan, seconded by President Castillo, duly carried, RESOLVED, Items "B" and "C" continued one week to September 28, 2004, by the following vote:

Ayes : Calhoun, Castillo, Duncan, Sterling, Boyajian
Noes : Perea
Absent : Dages

RDA CLOSED SESSION ANNOUNCEMENT:

Chair Boyajian advised a good discussion occurred in closed session and action was taken to hire Redevelopment Administrator Murphey as the interim executive director. Ms. Murphey thanked the joint bodies and stated she looked forward to working with the board for a smooth transition and to keep the momentum going for downtown renewal, jobs and housing.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the Interim Executive Director Appointment Letter attached to the following Item "A" hereby approved, by the following vote:

Ayes : Calhoun, Castillo, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Dages

("A") CONSIDERATION OF ADDENDUM TO THE SECOND COOPERATION AGREEMENT BETWEEN THE CITY AND THE REDEVELOPMENT AGENCY (JOINT ACTION)

On motion of Councilmember Duncan, seconded by President Castillo, duly carried, RESOLVED, the Addendum to the Second Cooperation Agreement authorizing the Redevelopment Administrator to serve as an Interim RDA Executive Director effective September 27, 2004, hereby adopted, by the following vote:

144-89 9/21/04

Ayes : Calhoun, Castillo, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Dages

ADJOURNMENT

There being no further business to bring before the joint bodies, the hour of 7:01 p.m. having arrived and hearing no objections, Chair Boyajian declared the meeting adjourned.

APPROVED on the ____28th____ day of ____September____, 2004.

_____/s/____ ATTEST:_____/s/____

Tom Boyajian, Agency Chairman

Yolanda Salazar, Assistant City Clerk

144-90

9/21/04